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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

AARON LEMAR RICHARDSON,

Defendant and Appellant.

A147610

(County of Solano
Super. Ct. No. FCR 314644)

Defendant Aaron Lemar Richardson appeals following a judgment entered pursuant to a no contest plea to one count of first degree residential burglary (Pen. Code, § 459). Consistent with the terms of the negotiated disposition, the trial court sentenced him to a total term of nine years in state prison (with 408 days of presentence credit) and imposed fines and fees. His appellate counsel has raised no issues and asks this court for an independent review of the record to determine whether there are any issues that would, if resolved favorably to defendant, result in reversal or modification of the judgment.

(*People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436.)

Defendant was notified of his right to file a supplemental brief, but has not done so.

Upon independent review of the record, we conclude no arguable issues are presented for review and affirm the judgment.

Penal Code section 1237.5 generally precludes an appeal from a judgment of conviction after a plea of no contest or guilty unless the defendant has applied for, and

the trial court has granted, a certificate of probable cause. Here, defendant sought and was granted a probable cause certificate.

The record before us on appeal is limited. On the day trial was set to commence, defendant made a *Romero*¹ motion inviting the court to dismiss prior strikes and filed an executed felony waiver of rights form reflecting a negotiated disposition. After the court expressed its intention to strike one of the alleged strikes, it proceeded to voir dire and admonish defendant as to the terms of the negotiated disposition and his waiver of rights, and accepted defendant's no contest plea to first degree residential burglary and admission of enhancements. On a waiver of further arraignment and a sentencing report, the court proceeded to sentence defendant to the midterm of four years on the burglary conviction and an additional five-year consecutive term for a variety of priors (Pen. Code, § 667.5, subd. (b)), for a total term of nine years. The court awarded 408 days of presentencing credit, and imposed a restitution fund fine and various fees.

A month later, defendant made a *Marsden*² motion, apparently as a prelude to filing a motion to withdraw his plea or recall his sentence. Expressing considerable doubt as to whether it had jurisdiction to hear such a motion, out of an abundance of caution, the court held a closed hearing and thereafter denied the motion. We have reviewed the confidential transcript of that hearing and discern no error by the court.

Defendant subsequently sought and was granted a certificate of probable cause on the ground his attorney had not taken sufficient interest in his case and had failed to contact a witness defendant claimed would have shed "a legitimate light" on his "innocence." Defendant claimed that when his attorney came to see him about the prosecutor's offer, defendant had assumed his attorney "had exhausted all avenues in regards to preparing an adequate defense," when, in fact, according to defendant, he had not done so. Defendant, thus, was "manipulated" into accepting the plea deal. There is

¹ *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497.

² *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*).

nothing in the appellate record, however, that supports defendant's claim of inadequate representation.

DISPOSITION

After a full review of the record, we find no arguable issues and affirm the judgment.

Banke, J.

We concur:

Margulies, P.J.

Dondero, J.

A147610, *People v. Richardson*